

fully responsive to the requirement, Applicant elects species  $\alpha$ -1-antitrypsin. Claims 40-42 read on the elected species.

Applicant traverses electing between compounds exhibiting AAT activity and compounds exhibiting AAT-like activity because M.P.E.P. § 809.02(d) explicitly states: "Where only generic claims are presented, no restriction can be required except in those applications where the generic claims recite such multiplicity of species that an unduly extensive and burdensome search is necessary." Accordingly, the election requirement is improper because a reciting two choices (i.e., compounds exhibiting AAT activity and compounds exhibiting AAT-like activity) is not "such a multiplicity of species that an unduly extensive and burdensome search is necessary." In applicant's case, there is only a generic claim reciting "compounds exhibiting AAT or AAT-like activity" and no recitation of any species. Furthermore, according to the M.P.E.P., the Examiner must provide reasons and/or examples to support conclusions. Yet the Examiner has not provided any reasons why an examination of all the species would be a serious burden.

Applicant therefore respectfully requests that this election requirement be withdrawn and that all the claimed species be examined in this application.

#### **CONCLUSION**

In view of the above, Applicant respectfully requests withdrawal of the election requirement and the examination of all species together.

#### **AUTHORIZATION**

As this response is filed within the shortened statutory period, no fee for extension of time is believed due. The Commissioner, however, is hereby authorized to charge any fees


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which may be required for this Response, including fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1710.

Respectfully submitted,

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